

## **Federal Advisory Committee on International Postal and Delivery Services**

*(1:00-5:00 p.m., 20 March 2012, American Institute of Architects, 1735 New York Avenue, NW, Washington, D.C.)*

### **Committee Members in Attendance**

- James Campbell, Self-Employed
- Jean-Philippe Ducasse, JP Ducasse Consulting
- Lea Emerson, International Postal Affairs, USPS
- Bruce Harsh, Department of Commerce
- Merry Law, WorldVu LLC
- Michael Mullen, Express Association of America
- George Omas, Retired (Postal Regulatory Commission)
- Arthur Porwick, U.S. Chamber of Commerce
- Charles Prescott, UPU Consultative Committee
- Sue Presti, Public Policy Resources
- Michael Regan, Retired (USPS)
- Joseph Schick, Quad/Graphics, Inc
- Stephen Simchak, The Coalition of Service Industries
- Paul Smith, United Parcel Service (UPS)
- Don Soifer, Lexington Institute
- Phil Warker, Department of Homeland Security (Customs and Border Protection)
- Roldolfo Wolniewitz, DHL

### **Representatives of the U.S. Department of State**

- Patricia Lacina, Director, Bureau of International Organization Affairs, Office of Global Systems
- Dennis Delehanty, Director for Postal Affairs, Bureau of International Organization Affairs, Office of Global Systems
- Robert Downes
- Helen Grove, Management Analyst, Bureau of International Organization Affairs, Office of Global Systems
- Carol Henninger, Deputy Director, Bureau of Economic and Business Affairs
- Matthew Hillsberg, Intern, Bureau of International Organization Affairs, Office of Global Systems
- Jocelyn Jezierny, Intern, Bureau of International Organization Affairs, Office of Global Systems
- Carol Naylor, Office Management Specialist, Bureau of International Organization Affairs, Office of Global Systems
- Gabriel Swiney, Attorney Adviser, Office of the Legal Adviser

### **Welcoming Remarks**

1. Director Patricia Lacina from the Bureau of International Organization Affairs opened the Federal Advisory Committee on International Postal and Delivery Services meeting with introductions of members of the Department of State, members of the Committee, and members of the public. She then relayed greetings from Assistant Secretary Dr. Esther Brimmer and Deputy Assistant Secretary Nerissa Cook, before reviewing the agenda items.

### **Briefing on the Deliberations of the UPU Councils in February 2012**

2. Ms. Lacina opened the floor to the members of the Committee to discuss the document outlining the deliberations of the UPU Councils in February.

3. *Comments from Advisory Committee Members:* In response to a question by Michael Mullen regarding terminal dues, Lea Emerson took the floor to state that both the Postal Operations Council (POC) and Council of Administration (CA) approved a joint proposal to go forward to Congress for consideration by

all member countries. One of the benefits for U.S. interests and U.S. mailers in particular is that it would provide greater cost coverage for inbound mail, because under current UPU methodology for target system countries, the terminal dues rate is tied to the single USPS rate of 45 cents, whereas under the proposed new methodology, both a letter rate (small envelope) and a flat rate (large envelope) would be employed, resulting in a linearization of the terminal dues rates. The United States would thereby receive the same proportional amount of terminal dues as other countries have been receiving since the decisions made by the 1999 UPU Congress in Beijing. The United States has been at the floor because of low postage rates and will now be at the cap. This means that losses on inbound mail will be eliminated and as a further plus, there will be limited increases of terminal dues rates for outbound mail.

3. Another major topic of concern to many members of the UPU is the date when some of the lesser developed countries, for example the BRICs (Brazil, Russia, India, China) countries, must join the system. Ms. Emerson further explained that the 2008 Geneva UPU Congress devised a system to classify member countries based on gross national income and a multifactor postal development indicator. Under the system, there are five categories ranging from industrialized countries in the first group to the least developed countries in the fifth group. At the World Round Table on terminal dues, held for two days in Bern before the POC, a compromise proposal was reached, and it is highly likely that this will go forward.

4. Dennis Delehanty stressed that for the United States, one of the biggest issues is cost coverage on inbound mail. Additionally, one of the main goals of the United States is to avoid sudden and steep increases in international postage rates. It is important to note that the current proposal going forward to the Doha Congress is the culmination of four years of work by the UPU Councils. Additionally, there will probably be between 130 and 140 countries at Doha voting on the terminal dues proposal, with each country representing one vote.

5. In response to a question by Charles Prescott, Chair of the UPU Consultative Committee, Ms. Emerson stressed that the terminal dues proposal, if adopted, would be very good for U.S. mailers who send outbound international mail, as outbound mailers will no longer have to make up for inbound losses as the United States goes from the floor rate to the cap rate.

6. Mr. Prescott commented on the current proposal to reform the UPU Consultative Committee. He expressed concern that membership would be restricted to associations and organizations from member states that have an "interest in supporting the mission of the UPU," but would not expand membership to individual companies. One negative development brought forward in this proposal is that the Consultative Committee would meet only once a year, instead of two times a year, and its function would be restricted to that solely of a consultative body, where individuals would be invited as experts to participate in discussion. There is a concern that the private sector would lose control of its own agenda and its activities would be restricted. This proposal is perhaps driven by the desire of the International Bureau to exert control over the agenda of the Consultative Committee. A positive development, however, is that there appears to be greater interest in the work of the UPU, and hence the development of the Collaborative category encourages participation by individual companies in working groups. There is confusion over the meaning of the third of the "three C's," "Contributory," of which members are typically customers of postal services. However, to see the Consultative Committee being compressed is restricting to its performance. Mr. Delehanty inquired whether the concerns raised by Mr. Prescott could possibly be fixed by a proposal to the Doha Congress submitted by the United States or likeminded member countries. Mr. Prescott responded that there is not a sense that the Consultative Committee is a significant contributor to the work of the UPU, and the United States will have more important issues at the Doha Congress on which it should expend its energy.

#### **Draft Proposal for Possible Submission to the Doha Congress Suggested by Advisory Committee Members**

7. James Campbell introduced five proposals that he had submitted to the Advisory Committee last year as suggestions for possible U.S. proposals to the UPU Doha Congress. He referred to work accomplished by the Advisory Committee Work Group 3 that had produced a document asserting that U.S. policy towards the UPU should follow the requirements of U.S. law with respect to competition. The Department of State reviewed this paper and stated that a more specific document was needed.



Mr. Campbell therefore produced discussion points with respect to specific proposals that the United States might submit to the Doha Congress. These concern the following five issues:

- *Terminal dues.* The essential problem of the terminal dues system is that the United States does not charge the same rates to U.S. and foreign mailers, or for that matter, to private companies and foreign post offices. The problems created by the terminal dues system stem from the fact that the system is uncompetitive and distorted, and while fixing it is complicated, it is only necessary to fix the "target system." The terminal dues system has been referred to as a price-fixing arrangement. Under a regime in which terminal dues are set according to a series of principles, member states would treat foreign mail in the same manner as treating their own mail. Each industrialized country would pledge to charge for the delivery of inbound mail the same as they charge their own citizens and ensure that there is regulated enforcement.
- *Customs control.* The problem is that the UPU Convention creates special cases for shipments by postal operators, but with the decline of letters, postal operators understand that they must diversify to keep up with market developments. Large post offices are becoming significant players in the delivery of commercial shipments. The UPU distinguishes between commercial and noncommercial shipments; however, the UPU's special rules for customs clearance should apply to household shipments and not commercial shipments.
- *Regulations implementing the UPU Convention.* Under its Constitution, the UPU authorizes the POC to adopt regulations which are binding on member countries, but not discussed in Congress. The issue with this is that the POC is only made up of 40 member countries. While it would not work to undo the system entirely, it should be possible to consider a rule in which POC regulations are binding on operators, and for regulations to be binding on member countries, they must be passed by the CA. This would represent a step towards the separation of governmental and commercial functions.
- *Relationship to General Agreement on Trade and Services (GATS).* The UPU Convention should be implemented in alignment with the GATS Treaty, in a manner similar to the approach of the European Union. For this reason, the United States should submit a proposed reservation together with European and other like-minded member countries, such as Australia and New Zealand.
- *Postal Payments Agreement Services.* Regarding the agreement among member countries (not necessarily all) that governs the exchange of financial services between member countries, the POC can make binding agreements on operators but should reserve ratification for all member countries to the power of the CA.

8. *Comments from Advisory Committee members:* Don Soifer from the Lexington Institute stated that the continuation of work that Work Group 3 had been asked to do was based on substantial shifts in the marketplace for postal services, and that it was important to keep in mind that Mr. Campbell's proposals were drafted in July of 2011. Phil Warker from the Department of Homeland Security briefed the Committee on the current plans regarding customs clearance of postal items into the United States. The United States has initiated pilot programs in this respect and is anticipating at the end of the year 85% of all express and parcel volume data will have been tested for integrity. The authority under the Trade Act will be invoked to require parity in inbound items. In terms of UPU efforts, a proposal has been drafted under which the UPU standards would meet U.S. requirements, to improve standards for screening and enhance the supply chain. The United States is working with the EU, in an effort to make customs processes as equitable as possible.

9. Mr. Campbell mentioned that the EU has a modern customs code, which no longer has an exemption for postal mail. Mr. Warker replied that the United States is trying to implement processes to obtain data for the supply chain, while the EU is looking at a more operational model. All postal operators must meet requirements for advanced data imposed upon them by a country or group of countries. Mr. Campbell stated that his proposal seems to follow Mr. Warker's argument that there should be no special treatment for the competitive products of postal operators, and that the historic rule that there is special treatment for commercial shipments shipped by postal operators should be removed from the International Convention. Rather than a commercial versus noncommercial distinction, however, Mr. Warker suggested examining for which products the United States can start collecting data. For pragmatic reasons, the United States wants advanced data on all packages, in order to apply proper risk management.



10. Michael Mullen asked for a timeline for data collection on Express Mail Service (EMS) products. Mr. Warker responded that by mid-next year, the United States should receive data on 95% of the volume. The UPU's International Postal System (IPS) will enable all countries to report this data.

11. Paul Smith from UPS commented that a resolution that is prompt and effective is of the highest importance. With regard to an earlier informal discussion, the words that are sometimes ignored are "range of nondiscriminatory customs procedures would be made available to the postal service and to private companies" (407e3), particularly the phrase "range of." Mr. Smith inquired what this might mean in today's world. Mr. Campbell responded that there was an obligation on behalf of Secretary Clinton to create procedures that give American carriers nondiscriminatory delivery to their customers. To make some procedures available to some carriers but not others would be discriminatory, though it is possible to imagine that countries would have different procedures for certain goods and not for other goods. The idea is that different types of procedures should be available to all American exporters, even though it may make sense to have a range of customs procedures to suit the needs of the importing country. Mr. Warker stated that the United States is trying to raise the bar on mail. While looking at the data set for postal items, it is clear that there has not been enough accountability, and effective targeting and risk management is the most important process chain.

12. Bruce Harsh of the Department of Commerce shared comments on behalf of Commerce and the office of the Trade Representative (USTR).

- Both USTR and Commerce support the first proposal, to serve both as a way to offer a level playing field to private suppliers and as a way to avoid subsidizing inbound mail. However, the proposal raises a Most Favored Nation (MFN) issue, so there should be a study done that forms principles for the future reform of the terminal dues system.
- USTR and Commerce support the second proposal.
- With regards to the third proposal, USTR and Commerce support the separation of operational and commercial functions of the UPU to create a level playing field between private and state-owned operators. It would be a challenge for the UPU to ensure that regulations are not contrary to national legislations, so this should be the duty of member states to ensure, not the UPU.
- Regarding the fourth proposal, both Commerce and USTR are hesitant to include references to the WTO after working so hard to exclude these references at the 2008 Geneva UPU Congress. This proposal would not be workable as a reservation, since all reservations must be approved by member countries attending Congress, and it is unlikely that this proposal would pass. This proposal would blur lines between the WTO and the UPU, and the United States does not want to get into negotiations with other countries on GATS at the UPU. A declaration on this issue, however, could be a possibility.
- Commerce and USTR support the idea of the separation of operations and commercial functions of the UPU outlined in the fifth proposal, which will not only streamline the process but will also help level the playing field between private and designated suppliers.

13. Ms. Emerson stated that Mr. Campbell's first proposal would take us back more than a decade. The 2004 UPU Congress set up the target system and the 2008 UPU Congress moved 38 countries into this system. We want to continue to move towards cost recovery while avoiding raising terminal dues rates, which would lead to immediate and substantial cost increases for American outbound mailers and for the USPS. 100% domestic rate referencing would be costly and impractical to implement. In conclusion, the USPS does not believe that the UPU is noncompetitive. Rather, it ensures that universal services are fulfilled by postal operators designated by member countries.

14. Allison Levy from the Postal Regulatory Commission (PRC) commented on behalf of Ann Fisher, who feels that it is important to share the views of the PRC on Mr. Campbell's first proposal regarding terminal dues. The PRC shares some of Mr. Campbell's concerns regarding cost coverage, but significant progress has been made in this area. If the current POC proposal on terminal dues passes at the Doha Congress, the USPS will be in a far better position, with limited increases on the outbound side for mailers. The PRC cannot say whether the UPU is anticompetitive, and suggests going to the experts for this information. The PRC would be interested in learning if any members of Advisory Committee or other agencies are interested in a study on this first proposal. Mr. Campbell, Mr. Mullen, and Mr. Prescott replied that they would be interested in such a study.



15. Mr. Campbell inquired as to where the Department of Justice and Federal Trade Commission are investigating potential anti-competitive aspects of the UPU terminal dues system. Gabriel Swiney of the Office of the Legal Adviser at the Department of State stated that the Department of Justice is aware of the request for an investigation and officials of the Department of Justice Antitrust Division who are knowledgeable regarding postal issues are in contact with postal experts. Those concerned with how the Department of Justice deals with anti-competition issues can contact the Department of Justice directly.

16. *Comments from the public:* Keith Ellison asked what defines a postal product from the perspective of DHS, and what weight categories DHS is examining. Mr. Warker responded that DHS is not looking at any weight category in particular.

### **Proposals for UPU Congress and Program Budget Impact Statements**

17. Mr. Delehanty described the approach pursued by the Department of State with regard to UPU Congress and why it is likely there will be fewer proposals put forward by the United States. What has happened at the UPU in the last cycle is that the UPU has applied zero nominal growth, and there has been a reduction of resources available for the UPU. This has forced pressure on the UPU to look more closely at "proposals of a general nature." If a proposal gives any significant work to the UPU level or consumes resources, those proposals must be accompanied by a Program Budget Impact Statement. At Congress, there are hundreds of proposals, with maybe 30-50 "proposals of a general nature." At Doha, the International Bureau will produce a running tally of what the UPU Congress estimates to be the total cost of those proposals. If this estimation is over the expected annual budget ceiling of 37 million Swiss francs, countries attending Congress will vote on the 10 least priority programs and therefore some proposals adopted by Congress may not be implemented. This situation has caused the United States to think twice about proposing ideas to carry out over the next four years, because it is necessary to think very carefully about what the costs of those proposals will be. This is why the United States has not yet submitted "proposals of a general nature" to the Doha Congress, as the United States is now taking a more cautious approach.

### **Draft U.S. Strategic Plan for the UPU 2013-2016**

18. Mr. Delehanty stated that, starting in 2004, before the Bucharest Congress, it was determined that the U.S. delegation should anticipate the major issues to keep in mind going into Congress. Before the 2004 Congress, the delegation mapped out the main issues and put forward a document that became the U.S. Strategic Plan for the UPU. This document would serve two purposes: to set forth goals that the UPU should achieve, and to set high level policy for the U.S. delegation which would serve as a framework for producing position papers and help the delegation to carry out its work. In early 2008, going into the Geneva Congress, the delegation made the decision at the Advisory Committee meeting to present the first version of the Plan to the Advisory Committee. Recently, this Plan has been adjusted to give it a more genuinely strategic, high-level focus, listing three tiers of priorities. The first tier includes quality of service, integrity of the international postal network, and economic issues; the second tier includes Extra-territorial Offices of Exchange (ETOE's), UPU strategy, and UPU budget and management; and the third tier includes the structure of the UPU and improving decision making.

19. This updated version of the Plan reflects the views of U.S. government agencies, but is still a work in progress and would benefit from further input. One topic of interest is mentioned in point 6c, which discusses a review of human resource and gender balance at the International Bureau. It may be beneficial to add elements from recommendations of a UPU Reflection Group on human resource issues in this section of the Plan. In addition, gender balance has become an important issue for the Department of State and Secretary Clinton, so that may assume a greater importance in the future. Additionally, it may be necessary to find a place for the last point, 8b, which references criteria for measuring implementation and effectiveness of postal reform legislation. This is an important point, but does not quite fit into the structure of the Strategic Plan that exists thus far.

20. *Comments by Advisory Committee members:* Mr. Prescott voiced concern with regard to the point of gender balance, inquiring how this would be carried out and what would be done with the resulting



information. Additionally, with respect to Secretary Clinton's concern for gender balance, it may not be necessary to micromanage at the UPU level when there are policies in place at the UN level to take care of this issue. Mr. Delehanty agreed that point 8b raises some tough questions. On the point of gender balance, however, it is stated in the UPU Constitution that the International Bureau operates under the control of the CA, which raises the question of the extent of oversight of the CA and its responsibilities in regard to the International Bureau. This also raises the questions of whether the CA can fulfill its functions, what it means to be a UN specialized agency, and to what extent UN human resource principles apply to UN specialized agencies.

21. Ms. Lacina commented that upwards of around 60-65% of the entire UPU budget is spent on the International Bureau, where there is a noted lack of oversight from countries, which is disconcerting to the Department of State. Ms. Emerson added that the UPU has ranked last of all UN specialized agencies in terms of women in professional posts at the International Bureau.

22. Michael Mullen commented that overall, the Strategic Plan is a good document with good language. The approach to Customs, outlined on page 3, would align with the proposal of Mr. Campbell. He then inquired how the United States would encourage the private sector to become more meaningfully engaged in dealing with the "Structure of the UPU" in point 7c.

23. Sue Presti asked if there are ways to encourage greater private stakeholder participation throughout the UPU, not just within the Consultative Committee. Institutionally, it remains difficult for private stakeholders to truly be integrated into meetings, and the United States needs to find ways to break down those barriers. Ms. Lacina replied that the Department of State is currently looking at the possibility of having members of the private sector serve as Private Sector Advisors on the U.S. delegation to the Doha Congress. The private sector is valuable in providing on-the-ground information to the Congress, and proposals that may impact the private sector should be examined in advance.

24. Paul Smith suggested removing the words "presenting similar customs concerns" in point 2e under "Customs," as these words are superfluous to the core point.

25. Don Soifer stated that perhaps the principles put forward in the Strategic Plan can be further advanced. Also, it has been nice when access to proposals has been facilitated. Additionally, Mr. Soifer appreciates point 3f, which relates to eliminating subsidies of postal products in the competitive market by the UPU budget being made a top-tier issue, although in light of the recent conversation there is certainly a case for some budget and management issues to be top tier. Mr. Soifer added that other potential subsidies that are not strictly postal or delivery should be limited, in addition to postal products in the competitive market.

26. Mr. Prescott, Merry Law, and Ms. Emerson argued that there needs to be increased transparency and visibility within the International Bureau, which has been a problem as many people do not have access to documents that should be made publicly available. Mr. Delehanty stated that the United States previously proposed that passwords for access to documents be eliminated, and this proposal failed. Mr. Prescott added that members of the Consultative Committee have official observer status, so any member who wants to participate in discussions is entitled as an observer to do so.

#### **Doha UPU Congress- Committee Chairs**

27. Mr. Delehanty introduced this document, which indicates which countries will be Committee Chairs and Vice-Chairs at the Doha Congress, and is solely meant to be informative. The calendar for Congress will be sent out later. It is important to note that in Qatar, Fridays and Saturdays are weekend days and the working week is Sunday through Thursday.

#### **Doha Postal Strategy**

28. Mr. Delehanty put forward this document, which describes the Doha Postal Strategy in full, with the main goals listed in order of priority. There is a wide range of goals but the Strategy provides a framework for the work of the UPU over the next four years.



## **Doha UPU Congress- Distribution of Proposals**

29. A discussion ensued regarding the accessibility to UPU meeting documents on the UPU website. Mr. Delehanty mentioned that previous proposals that aimed at eliminating passwords were rejected, but it may be possible for those who do not have access to UPU documents to receive proposals and documents from the Department of State. Paul Smith inquired into the possibility of the Advisory Committee itself receiving a password, in which case the members would de facto get a password. Laree Martin of USPS suggested that most proposals be moved to the unprotected part of the UPU Congress website, as most of these proposals do not contain confidential information. Mr. Delehanty stated that would be a possibility, but curiously, the CA never made a decision to password-protect documents, and when this issue was raised, it was decided that the password could not be lifted.

## **Postal Financial Services**

30. Michael Corbin from the Department of Commerce discussed his efforts in conjunction with the U.S. delegation to the UPU to ensure that postal financial services-related proposals are adopted consistently with international and U.S. trade regulatory policies. The UPU has asserted that its two main priorities are the refinement of the remittances process to be more efficient and financial inclusion related to the Gates Foundation and World Bank recommendations. Mr. Corbin had the opportunity to meet privately with those responsible for financial services at the IB, and the IB was very open to addressing U.S. comments. Commerce and other agencies will continue to work within the U.S. government interagency group and the UPU to monitor UPU activities in efforts to support the U.S. insurance and other financial sectors. In document 14b, language was inserted that defined "other financial services" and to ensure that whenever the phrase "other financial services" was brought up it was included that it must be in accordance with the appropriate national regulatory authority. They were also able to get document 14c to omit the use of "other financial services" as a term, in order to use "postal payment services" instead. The USTR was troubled by references to "trade" and "international trade" and this was removed. In 14c Addendum 1, language was inserted to state that it was acceptable to link people who lived in rural areas with no post offices to other postal services, "as long as any financial services provided are subject to relevant financial standards as applicable and in accordance with national legislation or appropriate national regulatory authority." This was included to maintain consistency throughout the UPU documents with respect to this.

31. Ms. Lacina added that a new interagency working group, chaired by State's Economic Bureau, was created to deal with financial services, including Commerce, USTR, and others. They are working toward a common goal and depend on Commerce and USTR to disseminate that information to industry.

32. *Comments by Advisory Committee members:* Steve Simchak, from the Coalition of Service Industries, spoke from the perspective of financial services to voice concern that the UPU favors national rather than private financial service providers. He wants to make sure the private sector can help further represent the goals of nondiscrimination and competition that the United States supports. Mr. Simchak also supported the idea of having private-sector representatives on the U.S. delegation to the Doha Congress.

## **Any Other Business**

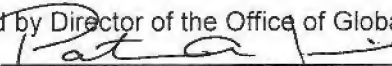
33. Before closing the meeting, Ms. Lacina opened the floor to other items of business. Mr. Prescott asked for support on a number of proposals that deal with the Consultative Committee in some capacity, including:

- Electronic services group request for continuing funding and attention to development of .post and development of hybrid mail products and services
- A resolution proposing the development of a parcel return product which has implications for postal and customs duty drawback issues, a "critical development resolution" for e-commerce and for the private sector
- A proposal for study of undeliverable and abandoned parcels; a proposal for continued work for an address for everyone, built on .post platform, for address hygiene
- Proposal to continue revenue protection work in conjunction with the Postal Security

34. *Comments by Advisory Committee Members:* Ms. Martin explained that a way in which interested private companies can achieve more meaningful involvement in the UPU would be to advise UPU member countries on how to reach some of the most underserved and often neglected people in the world. Private operators can help in a consultative role, as it is unlikely that these operators would be interested in or able to offer the services that would satisfy the needs of the people in these hard-to-reach areas of the world, such as providing small, short-term insurance policies. Acting as advisers to member countries would be a fulfilling way in which private companies can become more incorporated into the "family" of the UPU.

35. Ms. Lacina closed the meeting with a promise to deliver the meeting minutes, and stated that the next meeting will likely be held soon. Everyone is encouraged to keep checking the UPU website for newly added Doha Congress documents.

Meeting minutes prepared by Jocelyn Jezierny, Bureau of International Organization Affairs, Office of Global Systems.

Certified by Director of the Office of Global Systems in the International Organizations Bureau Patricia Lacina:  this 2<sup>nd</sup> day of July, 2012.